

REMARKS

The remainder of this amendment is set forth under appropriate subheadings for the convenience of the Examiner.

Response to Restriction Requirement

Applicant hereby confirms election of Group I, claims 1-29, drawn to a surgical retractor, classified as Class 600, subclass 232, without traverse.

Claim Amendments

Claim 1 has been amended to include the additional element of a retractor blade assembly that releasably connects the blade of the surgical retractor positioning device onto a distal end of an arm of the device. Support for this amendment to claim 1 can be found in the specification, for example, at page 13, lines 1-24. Dependent claims 4 and 6 have been amended to be consistent with the amendments to independent claim 1 and are also supported by the specification at page 13, lines 1-24. Independent claim 24 has been amended to include the additional limitation that the major axis of at least one arm connected to the frame of the surgical retractor positioning device is able to pivot about a point at the frame. Support for this amendment can be found in the specification at page 10, lines 5-8, with reference to FIG. 3. New claim 38 is dependent from independent claim 1 and includes the limitation that the retractor blade assembly of the surgical retractor positioning device of claim 1 includes a rack and a hook extending from the rack, whereby the hook releasably attaches to the blade. Support for this amendment can also be found in the specification at page 13, lines 1-24. Dependent claim 32 has been amended to depend from new claim 38. Because of the amendment of this claim to depend, indirectly, from independent claim 1, which is in elected Group I, Applicants respectfully request that this claim be considered along with the elected claims.

No new matter has been added.

Rejection of Claims Under 35 U.S.C. § 102(b)

Claims 1-6, 14-17, 27 and 29 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. 5,984,867, issued to Deckman *et al.*, (Deckman *et al.*). In particular, the Examiner stated that Deckman *et al.* disclose a surgical retractor positioning device (10), comprising a frame (22)

and an arm (56,58) connected to the frame. The Examiner stated that blade (32) is connected to the distal end of arm (56,58) and is fixably rotatable about a major axis of the arm. The Examiner also stated that the surgical retractor of Deckman *et al.* includes an assembly device having a rack (54,74) to facilitate positioning blades onto the arms, and that the method steps of claims 27 and 29 would have inherently been carried out in the operation of the device.

Applicants' surgical retractor positioning device includes a frame, an arm connected to the frame, at least one blade connected to the distal end of the arm and, as amended, a retractor blade assembly that releases the blade from the blade assembly onto the distal end of the arm.

Deckman *et al.* disclose a surgical retractor that includes first and second retractor blades (30,40) coupled to a frame (20) by a coupling structure extending between each blade and the frame. As can be seen in FIGS. 1 and 2, end (54) is detachably secured to blade element (32). Col. 4, lines 14-28, states that blade element (32) is detachable from end (54) which, in turn, is pivotably attached to outer portion (58) by hinge (62):

The end **54** of the coupling arm is pivotably attached to the outer portion of **58** by a hinge **62** so as to pivot about an axis generally parallel to that of hinge **60**. The end **54** is provided with an opening **64** configured for detachably securing a mounting pin **66** provided on the blade element **32**. Any suitable detachable connection may be used to mount the blade element **32** to the end **54** of the coupling arm **50**.

Therefore, end (54) is pivotably attached to end portion (58) and extends between end portion (58) and blade (32).

Similarly, as described at Col. 4, lines 29-34, blade (42) is linked to frame member (22) by link member (74):

The blade element **42** is coupled to the frame member **22** by a coupling arm indicated at reference numeral **70**. The coupling arm **70** has one end **72** movably coupled to the frame member **72** and at an opposite end formed as a link member **74** configured to detachably mount the blade element **42**.

There is no disclosure or suggestion in Deckman *et al.* of a retractor blade assembly that releases a blade from the blade assembly onto a distal end of an arm of a surgical retractor positioning device as claimed by Applicants in amended independent claim 1.

As stated at page 4, lines 27-28, the retractor blade assembly provides a mechanism to quickly attach retractor blades to the frame of the surgical retractor positioning device. The subject matter of independent claim 1 is novel in view of the teachings of Deckman *et al.* under 35 U.S.C. § 102(b). Remaining pending dependent claims 2-4, 6-23, new dependent claim 38, and claim 32, which, as amended, depends from new dependent claim 38, all depend, directly or indirectly, from independent claim 1 and, therefore, also are novel in view of the teachings of Deckman *et al.*

Applicants' claim 27 is directed to a method of forming a surgical working field in a patient. The method includes making an incision in a patient, positioning the surgical retractor over the incision, and releasing a plurality of blades from a retractor blade assembly onto distal ends of arms of the surgical retractor.

As discussed, the teachings of Deckman *et al.* do not disclose a retractor blade assembly that releases blades onto distal ends of arms of a surgical retractor. Therefore, there can be no disclosure or suggestion in the teachings of Deckman *et al.* of a method of forming a surgical working field in a patient that includes positioning the surgical retractor over the incision and releasing a plurality of blades from a retractor blade assembly onto distal ends of arms of the surgical retractor, as claimed by Applicants in amended independent claim 27.

Independent claim 27 and claim 28, which depends from independent claim 27, meet the requirements of 35 U.S.C. § 102(b) in view of Deckman *et al.* Dependent claim 29 has been cancelled, thereby obviating this portion of the Examiner's rejection.

Rejection of Claims Under 35 U.S.C. § 103(a) Over Deckman in View of U.S. 4,010,741 issued to Gauthier

Claims 7-13 and 24-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Deckman *et al.* in view of U.S. 4,010,741, issued to Gauthier (Gauthier). In particular, the Examiner stated that Gauthier evidences use of a circular frame and at least four arms with a major axis that are colinear or intersect, thereby creating a bigger cavity. Therefore, according to the Examiner, given the teachings of Gauthier, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Deckman *et al.*, as taught by Gauthier, to create a bigger cavity.

Applicants claims 7-13 depend directly or indirectly from independent claim 1. With respect to Applicants' independent claim 1, Gauthier does not remedy the deficiencies of Deckman *et al.* In particular, there is no disclosure or suggestion in Deckman *et al.* or Gauthier, taken either separately or in combination, of a retractor blade assembly that releases a blade of a surgical retractor positioning device from the blade assembly onto a distal end of an arm of the device, as required by the surgical retractor positioning device of Applicants' amended independent claim 1. Therefore, the subject matter of Applicants' dependent claims 7-13 meet the requirements of 35 U.S.C. § 103(a) in view of Deckman *et al.* or Gauthier, taken either separately or in combination.

The subject matter of Applicants' independent claim 24 has been amended to include the element that a major axis of at least one arm connected to a frame of the surgical retractor positioning device is able to pivot about a point of the frame. Support for this amendment can be found in the specification at, for example, page 10, lines 5-8.

There is no disclosure or suggestion in either Deckman *et al.* or Gauthier, taken either separately or in combination, of a surgical retractor positioning device wherein a major axis of at least one arm of a plurality of arms connected to a frame of the surgical retractor positioning device can pivot about a point at the frame, as claimed by Applicants in amended independent claim 24. Claims 25 and 26 depend from independent claim 24 and, therefore, the subject matter of these claims also is not disclosed or suggested by Deckman *et al.* or Gauthier, taken either separately or in combination.

The subject matter of claims 24-26 meet the requirements of 35 U.S.C. § 103(a) in view Deckman *et al.* or Gauthier, taken either separately or in combination.

Rejection of Claims Under 35 U.S.C. § 103(a) Over Deckman *et al.* In View of U.S. 5,020,933, Issued to Salvestro *et al.*

Claims 18-23 and 28 stand rejected under 35 U.S.C. § 103(a) over Deckman *et al.* in view of U.S. 5,020,933, issued to Salvestro *et al.* (Salvestro *et al.*) In particular, the Examiner stated that Salvestro *et al.* teach a retractor with a pressure/position sensor and a controller for sensing tissue retraction pressure for controlling the position of the retractor blade. The Examiner stated that, given the teaching of Salvestro *et al.*, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of

Deckman *et al.*, as taught by Salvestro *et al.*, for sensing tissue retraction pressure and controlling the position of the retractor blade.

Claims 18-23 depend directly or indirectly from independent claim 1. Claim 28 depends from independent claim 27. As discussed above, independent claim 1, as amended, includes the additional elements of a retractor blade assembly that releases a blade of the surgical retractor positioning device from the blade assembly onto a distal end of an arm of the device.

Independent claim 27, as amended, includes the additional method step of releasing a plurality of blades from a retractor blade assembly onto distal ends of arms of a surgical retractor.

As discussed above, Deckman *et al.* do not teach or suggest a retractor blade assembly that releases a blade from a blade assembly onto a distal end of an arm of a surgical retractor positioning device, nor does Deckman *et al.* teach releasing a plurality of blades from a retractor blade assembly onto distals ends of arms of a surgical retractor. Salvestro *et al.* do not remedy the deficiencies of Deckman *et al.* Specifically, there is no disclosure or suggestion in Deckman *et al.* or Salvestro *et al.*, taken either separately or in combination, of a retractor blade assembly or use of a retractor blade assembly, whereby retractor blades are released from the assembly onto arms of a surgical retractor positioning device. Therefore, dependent claims 18-23 and 28 meet the requirements of 35 U.S.C. § 103(a) in view of Deckman *et al.* and Salvestro *et al.*, taken either separately or in combination.

SUMMARY AND CONCLUSIONS

As amended, the subject matter of Applicants' claims meet the requirements of 35 U.S.C. §§ 102(b) and 103(a) in view of Deckman *et al.*, Gauthier and Salvestro *et al.* taken separately or in any combination. Applicants also confirm election of Group I, claims 1-29, drawn to a surgical retractor, without traverse. Further, Applicants respectfully request rejoinder of claims 32 and 33, as having been amended to depend from new claim 38, which is, in turn, dependent upon elected independent claim 1. Non-elected claims 30, 31 and 34-37 will be cancelled upon removal of all other outstanding issues.

Applicants believe that the claims under consideration, and as amended, are in condition for allowance and respectfully request reconsideration of the outstanding rejections. If the

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Examiner believes that a telephone conference would expedite prosecution of this application, he is requested to contact Applicants' undersigned Attorney.

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